



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 27 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Gregory Anderson
President – Reed Minerals Division of
Harsco Corporation
5000 Ritter Road
Suite 250
Mechanicsburg, Pennsylvania 17055

Dear Mr. Anderson:

Enclosed is an executed original of the final Administrative Consent Order (ACO). The ACO requires Harsco to implement the U.S. Environmental Protection Agency approved fugitive dust control plan (FDCP) and submit revised permit applications to the Illinois EPA and Ohio EPA to include the FDCP as part of all the below listed facilities' air permits.

1. 226 East 1640 North Road, Pawnee, Illinois
2. 13090 East Manito Road, Pekin, Illinois
3. 5486 State Route 7 N, Gallipolis, Ohio
4. 412 McKees Lane, Niles, Ohio

This FDCP will require Harsco to do monthly and annual inspections of its operations and buildings to ensure necessary repairs and other measures are taken to minimize particulate matter emissions from its facility. Harsco's Pawnee facility's revised permit application will also include the requirements for the NSPS for Non-Metallic Mineral Processing.

Please direct any questions regarding this case to Michael Berman, Associate Regional Counsel at 312.886.6837.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Dickens".

Brian Dickens
Chief
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-13-113(a)-IL-13
)	EPA-5-13-113(a)-OH-06
)	
Harsco Corporation)	Proceeding Under Section 113(a)(1)(3)
)	of the Clean Air Act, 42 U.S.C. § 113(a)(1)(3)
)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5, is issuing this Order to Harsco Corporation (Harsco) under Section 113(a)(1)(3) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(1)(3).

Statutory and Regulatory Background

New Source Performance Standards

2. Section 111(b)(1)(A) of the Clean Air Act (the Act), 42 U.S.C. § 7411(b)(1)(A), requires the Administrator to publish a list of categories of stationary sources which, in the Administrator's judgment, cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

3. Section 111(b)(1)(B) of the Act, 42 U.S.C. § 7411(b)(1)(B), requires the Administrator to publish regulations establishing federal standards of performance for new sources within the listed stationary source categories.

4. The Administrator published a list of source categories in accordance with Section 111 of the Act, 42 U.S.C. § 7411 on January 8, 1982. 47 Fed. Reg. 951 (1982)(to be codified at 40 C.F.R. § 60.16).

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5. The prioritized list of source categories includes Non-Metallic Mineral Processing (priority 13). 40 C.F.R. § 60.16.

6. The Administrator promulgated the General Provisions of 40 C.F.R. Part 60 on December 23, 1971. 36 Fed. Reg. 24877 (1971)(to be codified at 40 C.F.R. Part 60, Subpart A).

7. The General Provisions of 40 C.F.R. Part 60 establish requirements for owners or operators of stationary sources subject to a standard of performance for new sources. In the definitions section of the General Provisions, any apparatus to which a standard applies is termed an "affected facility" 40 C.F.R. § 60.2. Owners or operators are required to:

a. Submit written notification of the following:

i. The date construction of an affected facility is commenced, no later than 30 days after such date. 40 C.F.R. § 60.7(a)(1).

ii. The actual date of initial startup of an affected facility, postmarked within 15 days after such date. 40 C.F.R. § 60.7(a)(3).

iii. Any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, within 60 days, or as soon as practicable, before the change is commenced. 40 C.F.R. § 60.7(a)(4).

b. Conduct performance test(s) and furnish to the Administrator a written report of the results of such performance test(s) within 60 days after achieving the maximum production rate at which an affected facility will be operated, but not later than 180 days after initial startup of such facility. 40 C.F.R. § 60.8(a).

8. The Administrator promulgated the Standards of Performance for Calciners and Dryers in Mineral Industries on September 28, 1992. 57 Fed. Reg. 44503 (1992)(to be codified at

40 C.F.R. Part 60, Subpart UUU). This Standard imposes the following requirements on affected facilities subject to subpart UUU:

- a. Each owner and operator of an affected facility must comply with the emission limitation of 0.057 gram per dry standard cubic meter (g/dscm) [0.025 grain per dry standard cubic foot (gr/dscf)] for dryers on and after the date on which the initial performance test required by § 60.8 is completed, but not later than 180 days after the initial startup, whichever date comes first. 40 C.F.R. § 60.732(a).
- b. No emissions discharged into the atmosphere from any affected facility may exhibit greater than 10 percent opacity. 40 C.F.R. § 60.732(b).
- c. The owner or operator of an affected facility who uses a dry control device must meet the requirements for monitoring of emissions and operations set forth in 40 C.F.R. §§ 60.734(a-c).
- d. The owner or operator of an affected facility must maintain certain records and submit certain reports. 40 C.F.R. §§ 60.7 and 60.735.

9. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), states whenever on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of a rule promulgated under section 111 of the Act, the Administrator may issue an order requiring such person to comply with such requirement or prohibition. This authority has been delegated to the Director of the Air and Radiation Division. EPA Delegation 7-6-A, 8/9/94; Region 5 Delegation 7-6-A, 2/4/00.

10. Each state must submit to the Administrator of EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the CAA, 42 U.S.C. § 7410.

Illinois State Implementation Plan

11. On May 31, 1972, EPA approved at 35 Illinois Administrative Code (IAC) 201.141 of the federally enforceable state implementation plan (SIP) for Illinois.

12. 35 IAC 201.141 states no person shall cause or threaten or allow discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

13. On February 21, 1980, EPA approved 35 IAC 212.301 as part of the federally enforceable SIP for Illinois. 45 Fed. Reg. 11493.

14. 35 IAC 212.301 states no person shall cause or allow any visible emissions of fugitive particulate matter from any process, including any material handling or storage activity beyond the property lines of the emission source.

Ohio State Implementation Plan

15. On December 27, 2010, EPA approved 3745-17-08 as part of the federally enforceable SIP for Ohio. 75 Fed. Reg. 65567.

16. 3745-17-08(B) states no person shall cause or permit a fugitive dust source to be operated; or any materials to be handled, transported, or stored, or a building or its appurtenances or a road to be used, constructed, altered, repaired, or demolished without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne.

Findings

17. On August 22 2012, Harsco submitted a request to enter into an audit agreement with EPA under EPA's policy on "Incentive for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" for the Gallipolis, Niles, Pawnee and Pekin Facilities (Harsco's Region 5 Facilities).

Pawnee Facility

18. Harsco owns and operates a facility at 226 East 1640 North Road, Pawnee, Illinois (Pawnee Facility).

19. The Pawnee Facility (Facility) is a stationary source as that term is defined in the CAA, 42 U.S.C. § 7602(z) and the Illinois SIP, 35 IAC 211.6130.

20. Harsco owns and operates an "emission source" within the meaning of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore Harsco is subject to the requirements of Section 114(a)(1).

21. The Pawnee Facility is a non-metallic mineral processing facility that is subject to the general provisions for the NSPS, 40 C.F.R. Part 60 and the Standards of Performance for Calciners and Dryers in Mineral Industries, 40 C.F.R. Part 60, Subpart UUU, §§ 60.730-60.737.

22. The Illinois Environmental Protection Agency (IL EPA) issued a lifetime operating permit (LOP), identified by Application No. 85120005, to Harsco's Pawnee Facility on October 19, 2004.

23. The Pawnee Facility includes, among other things, a mineral processing plant as defined by 40 C.F.R. § 60.731.

24. The Pawnee Facility replaced and began operation of a roofing granule rotary dryer using a dry control device in December 2003.

25. On July 6 2004, the Pawnee Facility sent a letter to Mr. Ernie Kierbacli at IL EPA concerning NSPS Subpart UUU applicability questions regarding the rotary dryer replacement completed in December 2003 in order to determine if the permit should be amended.

26. On October 19, 2004, IL EPA issued a revised permit with no requirements to comply with NSPS Subpart UUU.

27. In August 2011, Harsco commenced construction of a new rotary dryer and new baghouse.

28. In August 2011, the Pawnee Facility began operation of the new rotary dryer and new baghouse. This rotary dryer and baghouse replaced the 2003 rotary dryer and dry control device.

29. On April 18, 2012 EPA conducted an inspection at the Pawnee Facility.

30. On February 20, 2013 and on April 12, 2018 representatives of Harsco and EPA discussed the alleged violations at the facility.

31. On February 21, 2013, the Pawnee Facility began Method 9 opacity reading in accordance with the requirements of 40 C.F.R §60.734.

32. On March 25, 2013, the Pawnee Facility submitted a Notification of Commencement of Construction and Initial Startup for the 2011 rotary dryer and baghouse, pursuant to 40 C.F.R. §§60.7 and 60.730.

33. On May 30, 2013, the Pawnee Facility conducted a performance test of the 2011 rotary dryer and baghouse, pursuant to 40 C.F.R. §§ 60.8, 60.732 and 60.736.

34. Harsco did not provide EPA with a written notification of the date construction was commenced of the rotary dryer and new baghouse within 30 days of the commencement of construction. This is a violation of 40 C.F.R. §60.7(a)(1).

35. Harsco did not provide EPA with a written notification of the actual date of initial startup of the rotary dryer and new baghouse within 15 days of the initial startup. This is a violation of 40 C.F.R. §60.7(a)(3).

36. Harsco did not conduct a performance test of the rotary dryer and new baghouse and furnish the Administrator a written report of the results of such performance test within 180 days after initial startup of the rotary dryer and baghouse. Harsco conducted a performance test of the rotary dryer and new baghouse on May 30, 2013. This is a violation of 60.8(a).

Pekin Facility

37. Harsco owns and operates a facility at 13090 East Manito Road, Pekin, Illinois (Pekin Facility).

38. The Pekin Facility is a stationary source as that term is defined in the CAA, 42 U.S.C. § 7602(z) and the Illinois SIP, 35 IAC 211.6130.

39. The Pekin Facility is a non-metallic mineral processing facility that is subject to the general provisions for the NSPS, 40 C.F.R. Part 60 and the Standards of Performance for Calciners and Dryers in Mineral Industries, 40 C.F.R. Part 60, Subpart UUU, §§ 60.730-60.737.

40. The IL EPA issued a LOP, identified by Application No. 05120014, to Harsco's Pekin Facility on July 24, 2007.

41. The Pekin Facility includes, among other things, a mineral processing plant as defined by 40 C.F.R. §60.731.

Gallipolis Facility

42. Harsco owns and operates a facility at 5486 Saint Route 7 N, Gallipolis, Ohio (Gallipolis Facility).

43. The Gallipolis Facility is a stationary source as that term is defined in the CAA, 42 U.S.C. § 7602(z) and the Ohio SIP, 3745-15-01 (X).

44. The Gallipolis Facility is a non-metallic mineral processing facility that is subject to the general provisions for the NSPS, 40 C.F.R. Part 60 and the Standards of Performance for Calciners and Dryers in Mineral Industries, 40 C.F.R. Part 60, Subpart UUU, §§ 60.730-60.737.

45. The Ohio EPA has issued several registration permits, identified by Facility ID 06-27-00-0005, to Harsco's Gallipolis Facility.

46. The Gallipolis Facility includes, among other things, a mineral processing plant as defined by 40 C.F.R. §60.731.

Niles Facility

47. Harsco owns and operates a facility at 412 Mckees Lane, Niles, Ohio (Niles Facility).

48. The Niles Facility is a stationary source as that term is defined in the CAA, 42 U.S.C. § 7602(z) and the Ohio SIP, 3745-15-01 (X).

49. The Niles Facility is a non-metallic mineral processing facility that is subject to the general provisions for the NSPS, 40 C.F.R. Part 60 and the Standards of Performance for Calciners and Dryers in Mineral Industries, 40 C.F.R. Part 60, Subpart UUU, §§ 60.730-60.737.

50. The Ohio EPA issued an air pollution permit-to-install and operate, identified as Permit Number P0105243, to Harsco's Niles's Facility on December 3, 2009.

51. The Niles Facility includes, among other things, a mineral processing plant as defined by 40 C.F.R. §60.731.

Compliance Program

Pawnee Facility

52. Within 60 days of the effective date of this Order, Harsco must submit a revised complete permit application to IL EPA to request that the NSPS Subpart UUU's requirements be incorporated into its state air operating permit as federally enforceable conditions.

53. Within 60 days of the effective date of this Order, Harsco must submit a revised complete permit application to IL EPA to request that the requirements within the fugitive dust control plan (FDCP), attached hereto as Attachment A to this order, be incorporated into its state air operating permit as a federally enforceable condition.

Pekin Facility

54. Within 60 days of the effective date of this Order, Harsco must submit a revised complete permit application to IL EPA to request that the requirements within the FDCP, attached hereto as Attachment A to this order, be incorporated into its state air operating permit as a federally enforceable condition.

Gallipolis Facility

55. Within 60 days of the effective date of this Order, Harsco must submit a revised permit application to Ohio EPA to request that the requirements within the FDCP, attached hereto as Attachment A to this order, be incorporated into its state air operating permit as a federally enforceable condition.

Niles Facility

56. Within 60 days of the effective date of this Order, Harsco must submit a revised permit application to Ohio EPA to request that the requirements within the FDCP, attached hereto as Attachment A to this order, be incorporated into its state air operating permit as a

federally enforceable condition.

Harsco's Region 5 Facilities

57. Harsco must comply with all applicable IL SIP, Ohio SIP and CAA regulations.
58. Harsco must notify EPA that it has submitted its permit applications incorporating the FDCP to Ohio EPA or IL EPA, respectively, and shall send notice to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

General Provisions

59. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that respondent may have with respect to this Order on Consent, including any right of judicial review under § 307 of the CAA, 42 Section 7607, or under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

60. This Order does not affect Harsco's responsibility to comply with other federal, state and local laws.

61. This Order does not restrict EPA's authority to enforce Section 111 of the CAA, the Ohio SIP, the Illinois SIP, or any other section of the CAA.

62. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the CAA, 42 U.S.C. § 7413, for Harsco's violations of the General Provisions of the NSPS, 40 C.F.R. Part 60.

63. Failure to comply with this Order may subject Harsco to penalties of up to \$37,500 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

64. The terms of this Order are binding on Harsco, its assignees and successors. Harsco must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

65. Harsco may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Harsco fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it.

66. This order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the information electronically, submit the response to this Order without staples; paper clips and binder clips.


67. EPA may use any information submitted under this Order in an administrative, civil judicial or criminal action.

68. Harsco agrees to the terms of this Order.

69. Harsco neither admits nor denies the factual allegations in this order.

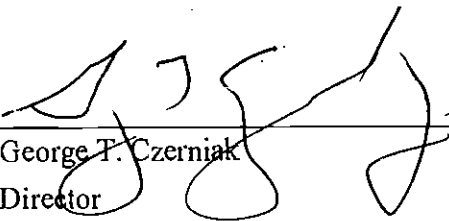
70. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate one year from the effective date, provided that Harsco has complied with all terms of the Order, or when Harsco has complied with the requirements of Paragraphs 52 through 58 of this Order, whichever is earlier.

9/26/13
Date



Gregory Anderson
President – Reed Minerals Division of
Harsco Corporation

9/27/13
Date



George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

ATTACHMENT A

HARSCO MINERALS FUGITIVE DUST CONTROL PLAN

I. General

- A. Fugitive dust sources of significance from this site can be categorized into the following areas:
1. Processing equipment;
 2. Loadout;
 3. Outside areas adjacent to slag processing areas;
 4. Roadways;
 5. Fines stockpiles; and
 6. Inactive ground level open areas not dedicated to any particular use.
- B. The Plant Superintendent (or comparable position) is responsible for plan implementation.

II. Control Plan

A. Processing Equipment Control Measures

Monthly visual inspections shall be conducted of all ductwork, outside chutes, loadout chutes, and outside elevators for openings, not in the original or custom design, greater than two inches in diameter, through which dust is exiting the process. Any such openings must be closed within 5 business days. A record must be maintained of the date of the visual inspections, the resulting observations, and the date of any repair.

B. Loadout

For finished material loadout, drop-height shall be reduced by the use of the longest static tube from the bottom of each existing loadout hopper that can still clear the highest clearance receiving equipment, which is typically a railcar.

C. Outside Areas Adjacent to Slag Processing Buildings

Spills and other accumulated material from activities associated with slag processing shall be cleaned up promptly and the areas within 15 feet of the perimeter of buildings and equipment shall be kept at grade (except for material storage areas).

D. Roadway Control Measures

1. Traffic shall be restricted to controlled roadways.

2. All vehicles shall not exceed 15 mph.
3. All active roadways shall be inspected daily to ensure roadways are not producing fugitive dust that is visible crossing a property boundary. Roadway dust may be controlled as needed by maintaining a cover of coarse aggregate, apply water or chemical dust suppressants, or other dust control measures approved by the Harsco Environmental Department.

E. Fines stockpile control measures

Note: Raw material stockpiles are exempt from this plan due to the moisture levels and silt content of those materials.

1. End loader bucket drop height shall be minimized to the lowest practical elevation – this practice shall be included in mobile equipment training and/or in employee communication.
2. Water shall be applied to fines stockpiles to control fugitive dust when necessary, except during freezing weather. Tarps may also be used to control fugitive dust from stockpiles.

F. Open areas (Inactive)

1. All such classified areas shall be closed to truck traffic, except when approved by Site Management.
2. Natural vegetative encroachment shall be allowed and promoted.

G. Employees with responsibility for the above material handling areas or equipment shall be trained as to the contents of this Plan annually or as procedure changes are made to this Plan.

H. The effectiveness and appropriate use of fugitive dust controls measures outlined by this plan shall be inspected monthly, except where more frequent inspection is required by this plan.

I. Fugitive dust inspection records shall be kept and maintained which document all control measures and activities to be implemented in accordance with the approved control plan, including the date of the visual inspections, the resulting observations, and the date of any repair (if applicable). Said records shall be available upon request for three (3) years or other period required by permit or regulation.

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Administrative Consent Order, EPA-5-13-113(a)-IL-13 and EPA-5-13-113(a)-OH-06 by certified mail, return receipt requested, to:

Gregory Anderson
President – Reed Minerals Division of
Harsco Corporation
5000 Ritter Road
Suite 250
Mechanicsburg, Pennsylvania 17055

James M. Hauck
Hatchett & Hauck, LLP
111 Monument Circle, Suite 301
Indianapolis, IN 46204-5124

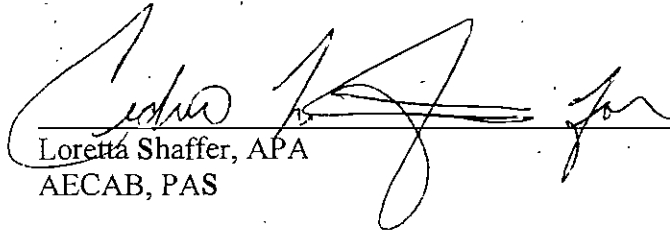
I also certify that I sent a copy of the Administrative Consent Order, EPA-5-13-113(a)-IL-13 and EPA-5-13-113(a)-OH-06, by first-class mail to:

Dean Ponchak, APC Manager
Ohio Environmental Protection Agency
Southeast District Office
2195 Front Street
Logan, Ohio 43138

Ed Fasko, APC Manager
Ohio Environmental Protection Agency
Northeast District Office
2110 E. Aurora Road
Twinsburg, Ohio 44087

Ray Pilapil, Manager
Bureau of Air
Compliance and Enforcement Section
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue
Springfield, Illinois

On the 30th day of September 2013.


Loretta Shaffer, APA
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7676 1192